46

APPELLATE DEPARTMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF YOLO

FILED
YOLO SUPERIOR COURT
MAY 09 2016
BY [signature]
DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,	)	Case No: 15-6705
Plaintiff and Respondent,	)	
v.	)	
JAMES HORTON,	)	
Defendant and Petitioner.	)	

RESPONDENT'S REPLY BRIEF

On Petition for a Writ of Mandate from the Judgment of the Superior Court
County of Yolo

The Honorable Daniel P. Maguire, Judge

JEFF REISIG #182205
Yolo County District Attorney
FRITS VAN DER HOEK #300122
Deputy District Attorney
301 Second Street
Woodland, CA 95695
Tel: (530) 666-8180

Attorney for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES CITED....................iii

STATEMENT OF THE CASE....................1

STATEMENT OF FACTS....................1

STANDARD OF REVIEW....................2

ARGUMENT....................2

I. DENIAL OF SPEEDY TRIAL MOTIONS ARE TYPICALLY ONLY APPEALABLE BY WRIT....................2

II. THIS WRIT SHOULD BE DENIED, AS PETITIONER HAS FAILED TO PROVIDE AN ADEQUATE RECORD TO THE COURT....................3

CONCLUSION....................4

CERTIFICATE OF WORD COUNT....................5

TABLE OF AUTHORITIES

CASES:

People v. Egbert (1997) 59 Cal.App.4th 503..................................2

Serna v. Superior Court (1985) 40 Cal.3d 239..................................2, 3

Sherwood v. Superior Court (1979) 24 Cal.3d 183..................................3

APPELLATE DEPARTMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA Plaintiff and Respondent, v. JAMES HORTON, Defendant and Petitioner.	Case No. 15-6705 Yolo County Superior Court RESPONDENT'S REPLY BRIEF

STATEMENT OF THE CASE

Petitioner has filed a petition for a writ of mandate to overturn The Honorable Daniel P. Maguire's denial of his speedy trial motion.

STATEMENT OF FACTS

On November 18, 2015, a complaint was filed with the Yolo Superior Court, charging Petitioner with an offense that was alleged to have occurred on February 18, 2015. After the petitioner made several court appearances the case was set for trial on February 16, 2016.

On February 16, 2016, Petitioner filed a speedy trial motion with the Superior Court. That was the same day this case was set to begin a jury trial. Because petitioner's speedy trial motion had been filed late, the court permitted the People to respond orally to the motion. The Honorable Daniel

P. Maguire denied the motion that same day. (R.T. 1).

Petitioner then filed two additional motions with the same name, one on February 17, 2016, and another on February 19th, 2016. On March 23, 2016, the Honorable Stephen L. Mock took up the two motions that had been filed since the denial of Petitioner's speedy trial motion. Judge Mock made a ruling to the effect that there had been no prosecutorial misconduct in this case, and did not disturb the speedy trial ruling that had previously been made by Judge Maguire. (R.T. 11.)

Petitioner has now filed a writ, requesting this Court to overturn the denial of his speedy trial motion.

STANDARD OF REVIEW

A Superior Court's denial of a speedy trial motion is reviewed for abuse of discretion. (*Serna v. Superior Court* (1985) 40 Cal.3d 239, 246.)

ARGUMENT

I. DENIAL OF SPEEDY TRIAL MOTIONS ARE TYPICALLY ONLY APPEALABLE BY WRIT.

A writ, such as this, is often the only mechanism by which a Defendant may appeal the denial of a speedy trial motion. A plea of guilty or no contest waives any denial of a speedy trial claim. (*People v. Egbert* (1997) 59 Cal.App.4th 503.) Accordingly, this writ is the proper mechanism for review.

/////

II. THIS WRIT SHOULD BE DENIED, AS PETITIONER HAS FAILED TO PROVIDE AN ADEQUATE RECORD TO THE COURT.

"The party seeking review of the superior court action must ... provide the reviewing court with a record adequate to permit such review." (*Serna v. Superior Court* (1985) 40 Cal.3d 239, 246.) "To be adequate, such a record should ordinarily include any written motion and opposition thereto together with their respective points and authorities, any relevant pleadings or reporter's transcripts, and any written dispositive order. Whenever the consideration of an exhibit is necessary for a complete understanding of the case, a copy thereof must also be furnished. And each item in the record, of course, must be legible." (*Sherwood v. Superior Court* (1979) 24 Cal.3d 183, 186-187.)

Here the petition includes two copies of the transcript of the March 23, 2016 proceeding with Judge Mock, one of which has various hand-written notes on it. Petitioner has failed to include the transcript from February 16, 2016, the date on which his speedy trial motion was denied on the merits. Similarly, the petition does not include the complaint, or the subsequent minute orders showing the reasons for the delay in the case, and that Petitioner continuously waived time.

Instead, the petition includes Wikipedia.com articles on the subjects of "Unit 8200." "Menachem Begin," "Camp David Accords," and "Israeli-

Palestinian peace process." He has also attached an article titled: "US spying on Israel reportedly ensares members of Congress."

As the Petitioner has failed to provide an adequate record to this Court, most importantly the transcript showing the court's rational and ruling, this Court lacks the information necessary to make a ruling on this writ. Because the court lacks the necessary information to even consider the petition, this Court should decline to issue a writ.

CONCLUSION

In short, Petitioner has failed to provide this Court with an adequate record to review the lower court's decision.

For the foregoing reasons, the People respectfully request that this Court decline to issue a writ.

Dated: May 7, 2016

Respectfully submitted,

FRITS VAN DER HOEK, 300122
Deputy District Attorney
Yolo District Attorney's Office
301 Second Street
Woodland, CA 95695
Telephone: (530) 666-8180
Email: Frits.vanderHoek@yolocounty.org

Attorney for Respondent,
People of the State of California